

Article VII

Weather Services and Related Programs

Article VII

Weather Services and Related Programs

1. The United States Department of Commerce's National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (hereafter referred to as the National Weather Service) shall, subject to the availability of funds appropriated for that purpose, provide weather services and related programs in the Federated States of Micronesia as described in this Article at the levels equivalent to those available during the year prior to the effective date of the amended Compact.
2. These services and related programs shall be provided pursuant to:
 - (a) the provisions of 15 U.S.C. 313 et seq.; the International Aviation Facilities Act 49 U.S.C. 1151 et seq.; and section 803 of the Federal Aviation Act of 1958, 49 U.S.C. 44720;
 - (b) other provisions of the laws of the United States to the extent they expressly apply to the National Weather Service;
 - (c) weather treaties and other international weather agreements to which the United States is a party;
 - (d) applicable Executive Orders of the President of the United States; and
 - (e) implementing National Weather Service regulations.
3. The Government of the Federated States of Micronesia may issue weather forecasts under such terms as may be mutually agreed with the National Weather Service. The Government of the United States shall, however, continue to provide public, marine and aviation weather forecasts and severe weather warnings.
4. The Government of the Federated States of Micronesia is encouraged to take such transitional actions as may be necessary to prepare for the establishment and support of its own weather service. Such transitional actions may be initiated at any time prior to termination of the amended Compact pursuant to Article IV of Title Four of the amended Compact or prior to termination of this Article pursuant to Article XIII of this Agreement. At the request of the Government of the Federated States of Micronesia, prior to the establishment of the Government's own weather service, the National Weather Service shall provide advice in the development of the Federated States of Micronesia weather service.
5. The National Weather Service shall provide weather services and related

programs pursuant to this Article, in part, through the Weather Service Offices (WSO) established in the Federated States of Micronesia.

- (a) The National Weather Service and the Government of the Federated States of Micronesia shall, in an Exchange of Letters, set forth the duties and qualifications of employees and provide procedures to reimburse the Government of the Federated States of Micronesia for materials and for salaries and other expenses incurred in the performance of these duties; and
 - (b) The Government of the United States shall reimburse the Government of the Federated States of Micronesia for costs incurred under this paragraph.
6. As required to implement the services and related programs provided pursuant to this Article or to meet technological change, the National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to WSOs and Supplemental Aviation Weather Reporting Station (SAWRS) observing sites. The Government of the United States shall reimburse the Government of the Federated States of Micronesia for costs incurred for training approved by the National Weather Service.
7. The National Weather Service shall inspect all WSOs and SAWRS observing sites on a regular basis to assure the quality of meteorological operations.
8. The National Weather Service shall provide and maintain WSOs pursuant to Article V of this Agreement, including meteorological observatories and other buildings, and shall maintain and replace meteorological and other equipment of the National Weather Service.
9. The National Weather Service shall provide the supplies and expendables required for the operation of its programs and related services.
10. Pursuant to Article III, Title One of the amended Compact, the radio operating frequencies in the bands 401-406 MHz and 1660-1700 MHz shall be protected by the Government of the Federated States of Micronesia in order to ensure their interference-free use for rawinsonde observations, in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention. Other radio operating frequencies may be substituted for those set forth in this paragraph by agreement of the Governments.
11. The Government of the Federated States of Micronesia, in order to assure that it receives the most current meteorological information and that such information will be available on a global basis, shall as a public service provide, at a reduction from normal commercial rates, continuing access to its telecommunications

services, for meteorological traffic to and from Guam and such other points as may be designated by the Government of the United States.

12. The National Weather Service shall provide weather services and related programs in Kosrae, Federated States of Micronesia, and Pohnpei International Airport, Pohnpei, Federated States of Micronesia to the extent that the National Weather Service determines that such services and related programs are necessary to meet requirements for safe and efficient operation of United States air carriers engaged in international and domestic air service in Kosrae and at the Pohnpei International Airport. The National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to Kosrae and at the Pohnpei International Airport to enable such employees to provide required weather-reporting services pursuant to this paragraph. The National Weather Service shall not be responsible for providing reimbursement to the Federated States of Micronesia for personnel costs, including salaries and expenses, incident to the provision of weather services in Kosrae and at the Pohnpei International Airport pursuant to this paragraph.
13. As the availability of logistic support and finances permit, the National Weather Service will install and operate a network of satellite reporting automatic weather stations within the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands and the Republic of the Marshall Islands in support of the forecasting operations of the Joint Typhoon Warning Center and the Regional Specialized Meteorological Center Tokyo - Typhoon Center.
14. The Government of the Federated States of Micronesia will provide logistic support for the installation and maintenance of the elements of this network within the Federated States of Micronesia, resources permitting, and the National Weather Service will reimburse the Government for the cost of this support.
15. Annexed to this agreement are further details of weather services and related programs to be provided by the National Weather Service to the Federated States of Micronesia.

Article VIII

Civil Aviation Safety Services and Related Programs

Article VIII

Civil Aviation Safety Services and Related Programs

1. The Government of the United States and the Government of the Federated States of Micronesia agree that the Federal Aviation Administration (FAA) shall provide aviation safety services in the Federated States of Micronesia in accordance with this Article, subject to availability of appropriated funds, with the common desire to:
 - (a) promote the common interests of the Government of the United States and the Government of the Federated States of Micronesia in fostering safe and efficient air service; and
 - (b) facilitate the orderly establishment of aviation safety statutory and regulatory regimes and aviation safety authorities by the Government of the Federated States of Micronesia.
2. The Administrator of the Federal Aviation Administration may determine, after consultation with the Government of the Federated States of Micronesia, the appropriate level of services and related programs that the Federal Aviation Administration shall provide under the Compact, as amended, and this Agreement, *provided the levels of services and related programs are consistent with the principles and objectives of the Compact, as amended, and this Agreement, including paragraphs 1 above and paragraphs 3 and 5 below.*
3. On behalf of the Government of the Federated States of Micronesia, the Government of the United States shall provide aviation safety services in the Federated States of Micronesia as follows:
 - (a) en route air traffic services within that air space including the Federated States of Micronesia for which the Government of the United States has responsibility under the appropriate regional air navigation plan approved by the International Civil Aviation Organization (ICAO);
 - (b) flight inspection and ground certification of nondirectional beacons and distance-measuring equipment, and periodic review and evaluation of the need for, and the maintenance, modification, improvement or replacement of, nondirectional beacons, distance-measuring equipment and related support systems in the Federated States of Micronesia (The nondirectional beacons and distance-measuring equipment shall be removed from service when the need for them no longer exists.); and

- (c) development and updating of instrument approach procedures, standard instrument departure procedures and standard terminal arrival routes for airports in the Federated States of Micronesia, and issuance of appropriate Notices to Airmen.
- 4. The Government of the Federated States of Micronesia, pursuant to Section 471 of the Compact, as amended shall take all necessary steps to ensure the conformity of laws, regulations and administrative procedures with the provisions of this Article. The aviation safety services specified under paragraph 3 of this Article shall be provided exclusively pursuant to treaties and other international agreements relating to aviation safety to which the United States is a party and the laws and regulations of the United States. The Government of the Federated States of Micronesia shall:
 - (a) consistent with Resolutions A23-11, Appendix N, Part II, Air Navigation, of ICAO Assembly Resolutions in force as of October 7, 1980, U.N. Doc. 9349, assign and delegate to the Government of the United States sole authority and responsibility for providing aviation safety services as specified in paragraph 3(a) of this Article until such time as those responsibilities are transferred at the request of the Government of the Federated States of Micronesia, and with the approval of the ICAO, from the Government of the United States to the Government of the Federated States of Micronesia; and
 - (b) grant unobstructed access by FAA personnel and FAA equipment to the property on which the navigational and landing aids set forth in paragraph 3(b) of this Article are located.
- 5. The FAA shall provide technical assistance to the Government of the Federated States of Micronesia to develop civil aviation safety authorities and to assist the FSM Government in the administration of safety certification and related aviation safety programs. Such technical assistance shall be provided pursuant to implementing agreements to be negotiated from time to time between the Government of the United States and the FSM Government. The FAA shall provide such technical assistance in accordance with the provisions of Part A of subtitle VII of Title 49, United States Code, and Chapter 473 of such subtitle. The technical assistance to be provided by the FAA includes, but is not limited to:
 - (a) continuing development of aviation safety statutes, regulations and aviation safety authorities;
 - (b) training, in the United States, of personnel designated by the Government of the Federated States of Micronesia;

- (c) stationing of FAA personnel in the Federated States of Micronesia to provide continuing advice and guidance to aviation safety authorities at the request of the FSM Government. Such advice and guidance may include assistance to aviation required for certification by the Government of the Federated States of Micronesia of airmen, aircraft, airports and air agencies, as the term "air agencies" is used in 49 U.S.C. 44702 and 44707; and
 - (d) provision of equipment, tools, and facilities determined to be necessary to ensure aviation safety, or recommendations that such equipment, tools or facilities be provided by the Government of the Federated States of Micronesia.
- 6. Pursuant to Article III, Title One, of the compact, the Government of the Federated States of Micronesia shall protect radio frequency bands allocated in accordance with Article 5 of the Radio Regulations of the International Telecommunications Union to the aeronautical mobile, mobile, aeronautical fixed, fixed, aeronautical radionavigation, and radionavigation services in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention, in order to ensure their use free of interference for these allocated purposes in support of civil aviation.
- 7. The Government of the Federated States of Micronesia, in order to ensure that they transmit and receive the most current meteorological information for civil aviation purposes and that such information provided by them shall be available on a global basis, shall provide continuing access to their telecommunications services for meteorological traffic to and from Guam or other points as may be designated by the Government of the United States in consultation with the Government of the Federated States of Micronesia.
- 8. The Government of the Federated States of Micronesia, in order to ensure that they transmit and receive the most current flight movement and airmen information data for civil aviation purposes, and that such information received or provided by them will be available on a global basis, shall provide continuing access to their telecommunications services for flight movement and airmen information traffic to and from Guam or other entry points into the Aeronautical Fixed Service of the International Civil Aviation Organization as may be designated in accordance with the Convention on International Civil Aviation, Annex 10, Volume 1 and 2, by the Government of the United States in consultation with the Government of the Federated States of Micronesia.
- 9. The Government of the United States and the Government of the Federated States of Micronesia shall from time to time enter into such agreements as may be necessary to implement subparagraphs (b) and (c) of paragraph 3 of this Article.

Article IX

Civil Aviation Economic Services and Related Programs

Article IX

Civil Aviation
Economic Services and Related Programs

1. The Government of the United States and the Government of the Federated States of Micronesia agree that the following provisions shall apply to the economic regulation of air services of the Federated States of Micronesia.
2. The Government of the Federated States of Micronesia shall exercise independent economic regulatory jurisdiction over air services to, from, and within the Federated States of Micronesia, which for the purposes of this Agreement are points outside the United States, as the term "United States" is defined in 49 U.S.C. § 40102.
3. In accordance with Section 124 of the Compact, the Government of the United States, if requested by the Government of the Federated States of Micronesia and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of the Federated States of Micronesia.
4. The U.S. Department of Transportation, upon request of the Government of the Federated States of Micronesia, shall provide the following assistance to the Government of the Federated States of Micronesia:
 - (a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;
 - (b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of the Federated States of Micronesia, of applications from any person seeking authority from the Government of the Federated States of Micronesia to engage in air services to, from or within the Federated States of Micronesia; the power of ultimate disposition of such applications rests with the Government of the Federated States of Micronesia;
 - (c) training in the processing of air service applications, in Washington, D.C., of not more than two persons annually, and a total of not more than six persons during the life of this Agreement, designated by the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and

- (d) such other assistance as may from time to time be specifically agreed to by the U.S. Department of Transportation.
- 5. Subject to the approval of the Congress of the United States, the Government of the United States shall maintain:
 - (a) A distinct classification of foreign air carrier, as the term "foreign air carrier" is defined in 49 U.S.C. § 40102, to be known as "Freely Associated States Air Carrier." This classification shall apply exclusively to a carrier which:
 - (1) is organized under the laws of the Federated States of Micronesia or the United States; and
 - (2) has consent to such classification from the Government of the Federated States of Micronesia, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.
 - (b) Authority for the U.S. Department of Transportation to authorize Freely Associated State Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.
 - (c) Notwithstanding the provisions of 49 U.S.C. § 40102(a)(15), Air Micronesia, Inc. and Continental Micronesia, Inc. each shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. § 40102(a)(2), for so long as they continue to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.
 - (d) The U.S. Department of Transportation shall maintain rules to implement the provisions of this paragraph as the Department, in its discretion, deems appropriate. The Government of the Federated States of Micronesia shall be given notice of any proposed change in these rules and an opportunity to present its views, which shall be considered in any such revision.
- 6.
 - (a) Notwithstanding paragraph 2, the Government of the Federated States of Micronesia shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and

between the Federated States of Micronesia and to establish prices applicable to such air services.

- (b) The Government of the United States shall promptly and sympathetically consider applications by air carriers of the Federated States of Micronesia to serve the United States, subject to all requirements normally applied.
- (c) The Governments of the Federated States of Micronesia and the United States shall, on the basis of reciprocity, exempt air carriers that are authorized by each other to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges that exceed an equitable proportion of the reasonable costs of providing the facilities, or which are discriminatory.

7.

- (a) The Government of the United States shall promptly notify the Government of the Federated States of Micronesia of the filing with the U.S. Department of Transportation of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to paragraph 6. The Government of the Federated States of Micronesia shall designate competent authorities pursuant to Article II, paragraph 10 of this Agreement for the purpose of receiving such notice. The Government of the Federated States of Micronesia shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government of the Federated States of Micronesia shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.
- (b) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of the filing with the Department of Transportation, Infrastructure and Communications of any application by an air carrier of the Federated States of Micronesia for authority under the laws of the Federated States of Micronesia to operate air services between the Federated States of Micronesia and the United States. The Government of the United States shall designate competent authorities pursuant to Article II, paragraph 10 of this Agreement for the purpose of receiving such notice. The Government of the United States shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the Federated States of Micronesia in connection with any such application, the Government of

the United States shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules,

8. The Government of the United States and the Government of the Federated States of Micronesia shall sympathetically consider a request by the other Government for the negotiation of a bilateral air transport agreement.
9. The Government of the Federated States of Micronesia may terminate the operation of paragraphs 3, 4, 5 or 7 of this Article. Such partial termination may be effected in the same manner as this Article may be terminated in accordance with Article XIII of this Agreement. If the Government of the Federated States of Micronesia terminates the operation of paragraphs 3, 4, 5 and 7 of this Article, the Government of the Federated States of Micronesia may, in accordance with Article XIII of this Agreement, also terminate the operation of paragraph 6 of this Article.
10. If the Government of the Federated States of Micronesia elects to terminate the operation of paragraphs 3, 4, 5 and 7 of this Article, and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of the Federated States of Micronesia and the Government of the United States. Notwithstanding the entry into force of an air transport agreement between the Government of the Federated States of Micronesia and the Government of the United States, this Article IX shall remain in full force and effect except as may be provided in paragraphs 9 and 10 of this Article.